THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION NO.8758 OF 1995

DATE: 12th September 2006

Between:
K. Rajan, son of K.raman Nair,
C/o Nobel School Staff & Employees Union,
'House of Labour' King Koti road,
Hyderabad, A.P.,

…. Petitioner.

And

1. Mr. L.Watcharn, Principal,
   Nobel School, 80 Jubilee Hills,
   Road No.2, Hyderabad-54 and
   2 others.

…. Respondents.

* * *

ORDER:

This writ petition is directed against the Award dated 13.11.1994 made in Industrial Dispute No.20 of 1994 on the file of the Labour Court-1, Hyderabad.

2. The petitioner is claimant. He laid a claim under Section 2-A (2) of the Industrial Disputes Act (for short 'the Act'') before the third respondent stating that he was appointed as a cook in the Girls Hostel with effect from 21.6.1990 and he was paid a salary of Rs.1,750/- per month. While so, on 23.12.1993 his services were terminated. According to the petitioner-claimant, no procedure known to law, was followed by the management while terminating the services of the petitioner, much less Section 25F of the Act.

3. The respondents filed counter stating that the petitioner was responsible for the theft of property of the management and failed to submit explanation when called for. He is in the habit of stealing the articles as shown in the notice. The allegations against the management are all false and fabricated. The management has not violated the provisions of Section 25F of the Act. The petitioner never worked continuously for more than 240 days to attract the provisions of Section 25F of the Act.

4. In support of his claim, the petitioner examined himself as

W.W.1 and marked documents Exs.W-1 to W-5. On behalf of the management M.Ws.1 and 2 were examined and Exs.M1 to M-3 were marked.

5. After a detailed consideration of entire oral and documentary evidence, the Labour Court came to the conclusion that the petitioner has worked for more than 240 days, therefore, the provisions of Section 25F of the Act attract to the facts of the case on hand. But, since it was found that the petitioner does not inspire confidence of the management, he is entitled to only for compensation, thus, passed an award directing the respondents to pay an amount of Rs.13,124/- in lieu of reinstatement. Aggrieved by the same the present writ petition is filed.

6. Learned counsel for the petitioner Sri V.Viswanatham, strenuously contended that once it is found by the Labour Court that the termination is contrary to the provisions of Section 25F of the Act, granting relief of reinstatement and back wages is automatic, therefore, the Court below grossly erred in just granting a meagre compensation of Rs.13,124/- in lieu of reinstatement. Therefore, the Award passed by the Labour Court is arbitrary and illegal.

7. *Per contra*, learned counsel for the respondent No.1 contended that the court below, in view of the evidence and on the fact that the management has lost confidence in the workman, has rightly dismissed the application just by granting a compensation of Rs.13,124/-. In fact, the management has filed W.P.No.5577 of

1995 questioning the very same Award aggrieved by the compensation granted by the Labour Court. The said writ petition was dismissed for default on 04th November 2004 and no steps were taken thereof.

8. I have given my earnest consideration to the respective submissions made by the learned counsel on either side and also perused the impugned order and other material made available on record.

9. As seen from the above, it is not in dispute that the petitioner worked under the respondents from 21.6.1990 to 23.12.1993 continuously without any break. Under those circumstances, the Court below has rightly came to the conclusion that the petitioner worked for more than 240 days preceding the date of termination of his services. But, in view of the peculiar facts and circumstances of the case and the allegations made by the management saying that the management has lost confidence in the workman, instead of granting reinstatement granted compensation of Rs.13,124/-. I am of the opinion that granting of compensation in lieu of reinstatement cannot be said to be unreasonable in the facts and circumstances of the case. However, in a case of this nature the compensation awarded needs to be enhanced further.

10. Therefore, the respondents are directed to pay an amount of Rs.16,000/-(Rupees sixteen thousand only) in all as compensation with interest at 12 per cent per annum thereon from the date of

claim till the date of realization, in lieu of reinstatement of the petitioner.

11. With the above modification, the impugned Award is confirmed and the writ petition is accordingly disposed of.

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C.V.RAMULU, J.

Date: 12th September 2006.
BSB